

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JULIET BRENTS,

Plaintiff,

vs.

THE CITY OF SPARKS POLICE
DEPARTMENT, MATTHEW RAKER,
BRIAN CHARBONNEAU, TARA BELL,
PETE KRALL, BRIAN MILLER, OFFICER
GRUND, OFFICER KLOEHN,

Defendants.

3:13-cv-00216-RCJ-VPC

ORDER

Pro se Plaintiff Juliet Brents filed this action on April 25, 2013, claiming violations of the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. (Compl., ECF No. 2). She did not serve process on the Defendants until August 28, 2013—125 days after she filed her complaint. On September 16, 2013, Defendants responded with the instant motion to dismiss, contending, among other things, that Brents failed to serve the compliant within 120 days of filing it, in violation of Federal Rule of Civil Procedure 4(m). (ECF No. 5). Brents has neither responded nor requested additional time to respond during the five months the motion has been pending.

As an initial matter, Plaintiff has forfeited her right to respond to the instant motion. D. Nev. R. 7-2(d) (“The failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion.”). Thus, the Court could grant the

1 motion under Local Rule 7-2(d) alone. Moreover, because Brents has failed to show good cause
2 for her failure to serve Defendants within 120 days of filing, Rule 4(m) mandates dismissal:

3 If a defendant is not served within 120 days after the complaint is filed, the court--
4 on motion or on its own after notice to the plaintiff--*must dismiss the action*
5 *without prejudice* against that defendant or order that service be made within a
6 specified time. But if the plaintiff shows good cause for the failure, the court must
7 extend the time for service for an appropriate period.

8 Fed. R. Civ. P. 4(m) (emphasis added). Accordingly, Defendants' Rule 12(b)(5) motion to
9 dismiss is granted, and the complaint is dismissed without prejudice.

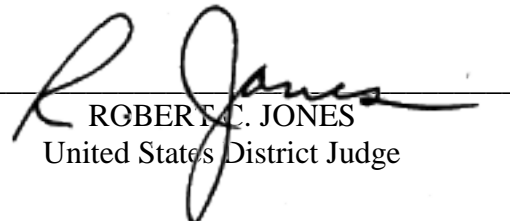
10 CONCLUSION

11 IT IS HEREBY ORDERED that Defendants' motion to dismiss (ECF No. 5) is
12 GRANTED.

13 IT IS FURTHER ORDERED that the complaint (ECF No. 2) is DISMISSED without
14 prejudice, and the Clerk of the Court shall close the case.

15 IT IS SO ORDERED.

16 Dated: March 24, 2014

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20 ROBERT C. JONES
21 United States District Judge
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